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SUBJECT: Nicaragua: Trafficking in Persons Report 2010

REF: STATE 2094

11. (U) Following is Embassy Managua's 2010 Trafficking in Persons (TIP) report. The information is keyed to reftel paragraphs 25-30.

12. (SBU) Nicaragua's TIP Situation (reftel para 25)

1A. (SBU) There is no central source of information regarding trafficking in persons in Nicaragua. The police, Public Ministry, and the Ministry of Foreign Affairs provided figures on the cases they managed, but these did not coincide with each other. Other government institutions do not compile any data on trafficking. In the past, the National Coalition Against Trafficking in Person (NCATIP) has not compiled statistics nor any other form of documentation. This year our request to meet with the NCATIP went unanswered. International organizations and NGOs manage some statistics on TIP in Nicaragua, but their efforts are limited to their scope of work and are not comprehensive assessments of the problem in country.

1B. (SBU) Despite the lack of reliable data on trafficking, the International Organization for Migration (IOM) noted an increase in migration within Nicaragua with a likelihood that trafficking is also increasing. Nicaragua was principally a country of origin for the international trafficking of minor and adult females for purposes of sexual exploitation. Most victims were trafficked to other Central American countries (Guatemala, El Salvador, Honduras, and Costa Rica), but were also trafficked to the United States, Mexico, and other countries. To a lesser extent, Nicaragua is a country of transit for international trafficking and has seen victims from Africa and East Asia. Trafficking also occurs within Nicaragua, with most victims being minor and adolescent females who are sexually exploited. Most victims are brought from the countryside to departmental capitals or from throughout the country to Managua.

1C. (SBU) Victims are generally trafficked for the purposes of sexual exploitation, particularly for prostitution. Traffickers tend to force the victims to work in brothels, nightclubs, and other similar establishments. Victims are also exploited for labor and there have been reports of victims being used for narcotrafficking.

1D. (SBU) The main group at risk for trafficking are minor and adult females from poor, rural areas who were previously victims of domestic abuse and/or sexual violence. Most victims ranged in age

from 13 to 25, but there were victims as young as 8 and some were 45 years old.

1E. (SBU) Traffickers/exploiters varied from organized crime rings to family and individual operations, which included male and female recruiters. A common method of recruiting victims was by promising a "good" job opportunity with a high salary. The victims were generally approached by a known and somewhat trusted individual, who would promise employment such as a chambermaid or store attendant. At times recruiters used victims to recruit other victims. Traffickers transported victims openly through border checkpoints. One common method was placing victims on a bus as a tourist to travel to a neighboring country. They also trafficked victims illegally through blind spots along the unpatrolled land and maritime borders. Travel agencies and similar businesses have been involved in fronting for traffickers.

13. (SBU) The GoN's Anti-TIP Efforts (reftel para 26)

1A. (SBU) The government has an office responsible for combating trafficking in persons. The government's efforts to investigate and prosecute TIP cases had minimal success. Its assistance to victims was minimal with international organizations and non-governmental organizations (NGOs) providing the great majority of assistance. These organizations also heavily supported the prevention work in Nicaragua.

1B. (SBU) The National Coalition Against Trafficking in Persons (NCATIP), which falls under the Ministry of Government, is the lead government office responsible for coordinating anti-trafficking efforts. Post's request for a meeting with the NCATIP went unanswered. The principal agencies within the NCATIP are the Nicaraguan National Police, Public Ministry (Prosecutor's Office), and the Ministry of the Family, and in the past has included up to 85 different government agencies and organizations. We met with the Public Ministry, the police provided written responses to our questions, and the Ministry of the Family would not meet with us. For the previous TIP report, all these agencies met with us. International organizations and NGOs also participate in the NCATIP.

1C. (SBU) The NCATIP's continuing lack of leadership and coordination has prevented a comprehensive approach to combating trafficking in Nicaragua. NGOs and some state offices continued to complain of NCATIP's lack of performance and questioned its commitment. The NGO Save the Children paid a consultant to work with the NCATIP to develop a 2010-2012 strategic plan to combat trafficking. Coalition officials, however, would not provide the details of the plan. Lack of resources, a generalized disrespect for the rule of law, and increased corruption in the judiciary continue to be key limitations to the government's ability to address the problem. This year international organizations and NGOs reported a decrease in police efforts and/or cooperation to combat trafficking. They also noted the constant change of personnel in the Ministry of the Family (the principal agency responsible for victim assistance) as an obstacle to providing assistance to the victims. Culture and class prejudices present another obstacle. Sexual exploitation and abuse of women and children is widely accepted in Nicaragua, impeding the ability to detect trafficking in persons. Victims of trafficking and sexual exploitation tend to feel shame and guilt, and thus are reluctant to file complaints with the authorities.

1D. (SBU) The government does not systematically monitor its anti-trafficking efforts. The NCATIP did not assess the results of its last plan which concluded in 2007.

1E. (SBU) In coordination with various international organizations (Save the Children, UNICEF, etc.), the government has attempted to promote birth registration. The ability of Nicaraguans to obtain national identification cards, however, has been problematic as the IDs also are used as voter registration cards and the institution responsible for the cards has become heavily politicized. There also have been reports of false IDs being issued to minors for the purposes of commercial sexual exploitation.

¶F. (SBU) The government does not have the ability to gather the required data for an in-depth assessment of law enforcement efforts. With the support of international organizations, the government might have the capability to conduct this assessment.

¶4. (SBU) Investigation & Prosecution (reftel para 27)

¶A. (SBU) Nicaragua's current penal code entered into force in July 2008. This code criminalizes both domestic and international trafficking for purposes of slavery, sexual exploitation, or adoption. The language of the TIP provision follows:

- Article 182. Trafficking in Persons for the Purpose of Slavery, Sexual Exploitation, or Adoption. Whoever, using force or violence/threats, offers, deceives, promotes, facilitates, induces or attracts, recruits, contracts, transports, transfers, retains, takes in, or receives people, with the purpose of slavery, sexual exploitation, or adoption, inside or outside national territory, even with the consent of the victim, shall be penalized with the sentence of between seven to 10 years prison. If the victim is younger than 18 years of age, or disabled, or the act was committed by a relative, guardian, spiritual guide, mentor, or an individual permanently sharing the family home of the victim, or has a relationship of trust with the victim, the penalty will be between 10 and 12 years prison.

Whoever sells, offers, delivers, transfers or accepts a girl, boy or adolescent for the purpose of sexual exploitation, regardless of whether a payment or reward was made, will be penalized with between eight to 12 years of prison. The same penalty will be applied to anyone who offers, possesses, acquires, or accepts the sale of a girl, boy, or adolescent with the purpose of illegitimate adoption.

¶A. (SBU) Continued. The penal code contains various other articles related to trafficking in persons. These include:

- Article 174. Sexual Harassment. Any individual who uses pressure, a position of power or authority, promises of preferential treatment, threats, or any other form of sexual harassment to coerce another person to engage in sexual acts can be found guilty of sexual harassment and sentenced to one to three years of prison. If the victim is younger than 18 years of age, the penalty ranges from three to five years of prison.

- Article 175. Sexual Exploitation, Pornography, and Paid Sexual Acts with Minors. Any individual found guilty of inducing, facilitating, promoting, or using a minor under the age of 16 or a disabled person for sexual or erotic purposes, or who forces such individual to watch or participate in such an act, will be punished with five to seven years of prison. If the victim is over the age of 16, but younger than 18, the penalty will be four to six years prison.

Those who promote, finance, make, reproduce, publish, sell, import, export, or distribute material for the purpose of sexual exploitation involving the image or voice of a person under the age of 18 engaged in a sexual or erotic activity will be considered in violation of the law. The penalty for this crime will be five to seven years of prison and a fine to be paid for 150 to 500 days.

Those who, for the purpose of sexual exploitation, own pornographic or erotic material in the terms expressed in the previous paragraph, will be punished with one to two years of prison. Those who carry out sexual or erotic acts with a person between the ages of 14 and 18, of any gender, in exchange for payment or promise of any economic benefit, will be punished with five to seven years of prison.

- Article 176. Aggravating Circumstances of Sexual Exploitation, Pornography, and Paid Sexual Acts with Minors. The penalty will be six to eight years of prison when the crime is: committed with the intent of profit; the author or authors are part of a group organized to commit sexual crimes; involves deception, violence, abuse of authority, intimidation, or coercion; the author commits the crime using a relationship of authority, superiority, family,

dependency, or trust with the victim, or permanently shares the home with the victim. If two or more of these circumstances concur, the penalty will increase to seven to nine years of prison.

- Article 177. Sexual Tourism. Those who promote the country as a destination for sexual tourism, individually or through tour operators, advertising campaigns, reproduction of images and texts utilizing persons younger than 18 years of age, will be punished with five to seven years of prison and a fine, equivalent to 33 percent of the condemned's daily wages or the standard minimum wage, to be paid for a period of 150 to 500 days.

- Article 178. Procurement of Prostitution. Those who induce, promote, facilitate or favor sexual exploitation, pornography, and the paid sexual act of a person of any gender, or are involved in the recruitment for said purpose, will be punished with four to six years of prison and a fine, equivalent to 33 percent of the condemned's daily wages or the standard minimum wage, to be paid for a period of 150 to 300 days.

- Article 179. Aggravated Procurement of Prostitution. The penalty will be between six and eight years of prison and a fine, equivalent to 33 percent of the condemned's daily wages or the standard minimum wage, to be paid for a period of 300 to 600 days, when: (a) the victim is younger than 18 years old or is disabled; (b) there is intent of profit; (c) there is involvement of deceit, violence, abuse of authorities or through any means of intimidation or coercion; (d) the author commits the crime taking advantage of a relationship of superiority, authority, family ties, dependency or trust with the victim, or permanently shares a family home with the victim.

- Article 180. Inducement of Prostitution (Pimping). Whoever by means of threat or coercion, receives economic commercial benefit, even if in part, from a person who provides sex acts through payment, will be penalized with between three and five years prison. If the victim is younger than 18 years old or is physically or mentally disabled, the penalty will be between five and seven years of prison. The same penalty will be applied when the author of the crime is either married to or in a common-law relationship with the victim

- Article 181. Restriction of Mediation and Other Benefits. When the crime of sexual exploitation is committed against boys, girls, and adolescents, there will be no mediation process nor any benefit of suspension of the penalty.

1B. (SBU) As mentioned in paragraph A, the penalty for trafficking people for sexual exploitation is seven to ten years imprisonment. If the victim is 18 years or younger or disabled or the act was executed by a family member of the victim the sentence is 10 to 12 years prison. When the act involves payment or reward for sexual exploitation, the penalty is eight to 12 years prison. Fines are set by the courts.

1C. (SBU) Trafficking for the purpose of labor exploitation is prosecuted under article 315 of the penal code. The language of this provision follows:

- Article 315. Discrimination, Servitude, and Exploitation. Whoever discriminates at the workplace for reasons of birth, nationality, political affiliation, race, ethnic origin, sexual orientation, gender, religion, opinion, economic position, disability, physical condition, or any other social condition shall be penalized with six months to one year prison and 90 to 150 days fine. Whoever submits, reduces, or maintains another person under slavery or similar conditions to slavery, forced or obligatory labor, servitude, or any other situation that impacts against human dignity, while in labor activity, will be punished with five to eight years prison.

A sentence of five to eight years prison and a fine will be imposed to those who traffic persons with the purpose of subjecting them to labor exploitation, as well as for forced recruitment to participate in armed conflicts.

The penalty for the crimes mentioned in the previous paragraphs will be increased by half the maximum limit for the crime

concerned, when these are committed: (a) against children, or (b) by means of violence or intimidation. If both circumstances concur, the penalty will be increased by three fourths the maximum limit of the crime concerned. Excluding those cases authorized by law, whoever employs a person younger than 18 years old for the purpose of labor exploitation will be sanctioned with two to four years prison.

1D. (SBU) Articles 167, 168, 169, and 170 of the penal code proscribe the penalties for various forms of rape and sexual assault. The text of these provisions follows:

- Article 167. Rape. Whoever has access or is made to have access or enters inside the victim or forces the victim to introduce a finger, object, or instrument for sexual purposes, vaginally, anally, or orally using force, violence, intimidation, or any other means that prevent the victim from using his/her will, reason or senses, will be penalized with eight to 12 years imprisonment.

- Article 168. Rape of a Minor Younger than 14. Whoever has access or is made to have access with or by a person younger than 14 years of age or who for sexual purposes introduces or forces to introduce a finger, object, or instrument vaginally, anally, or orally with or without the victim's consent will be penalized with 12 to 15 years imprisonment.

- Article 169. Aggravated Rape. A sanction of 12 to 15 years imprisonment will be imposed when: (a) the author commits the crime availing him/herself of a relationship of superiority, authority, family relationship, dependency, or trust with the victim, or one in which the family home of the victim is shared permanently; (b) the rape is committed with the assistance of two or more people; (c) when the victim by reason of sickness or physical or psychological disability is especially vulnerable to resist, or is pregnant or is older than 65 years of age; or (d) it results in grave harm to the health of the victim. If two or more of the circumstances mentioned in this article should concur, the maximum penalty will be imposed.

- Article 170. Rape of a Minor. Whoever while married or in a stable relationship or an adult, without violence or intimidation, enters or forces someone to enter the body by a person older than 14 years of age and younger than 16 will be sanctioned with a penalty of two to four years in prison.

1E. (SBU) Law Enforcement Statistics: The Nicaraguan National Police reported a total of nine cases of trafficking in persons, which included 14 offenders and 10 victims for the reporting period. The Public Ministry also reported a total of nine cases, but the cases did not coincide between the two agencies. The Public Ministry reported five cases dismissed for lack of evidence or other reasons, one case under further investigation, and three cases in which charges were formally filed. There were two convictions of trafficking for sexual exploitation - an Italian man and Nicaraguan woman were sentenced to 12 years in prison. The man is currently on house arrest pending his appeal.

1F. (SBU) International organizations and NGOs supported the training of the police and Public Ministry. Save the Children, the International Organization for Migration (IOM), and Casa Alianza (Covenant House) provided funding and logistical assistance to the Public Ministry, police and immigration for the training of its officials in Managua and the various departments. Save the Children continues to work with the police on its mapping projects on the routes used for trafficking.

1G. (SBU) The Public Ministry does cooperate with other countries' institutions in the investigation and prosecution of trafficking cases. In 2009, the prosecutor's office coordinated two cases with other Central American countries. The police did not provide information regarding cases requiring cooperation with other countries' authorities.

1H. (SBU) Nicaraguan law does not permit the extradition of Nicaraguan nationals. During the reporting period there were no cases of the government extraditing foreigners for trafficking.

1I. (SBU) There is no evidence of government officials' involvement

in trafficking. However, international and local organizations that provided victims assistance complained that local law enforcement authorities (i.e., police, immigration, etc.) were involved in or tolerated trafficking and other crimes (e.g., migrant smuggling). Media reported the court case of a man accused of sexual exploitation of minors in Rivas and reported a Managua judge listed in the case as one of the abusers. Authorities could not confirm if the judge was being investigated.

1J. (SBU) The state has not prosecuted any government officials for trafficking in persons, nor has the police investigated any government officials for TIP.

1L. (SBU) There is little information available regarding child sex tourism in Nicaragua, but government officials and NGOs believe it is on the rise. One government official stated that Managua saw the most cases of this type of sexual exploitation. Child sex tourists come from the United States, Europe, and Canada to San Juan del Sur, Tola, Granada, Corinto, and Leon. Additionally, businessmen from other countries are known to seek minors for sexual exploitation during their business travel to cities such as Managua and Esteli. The government does not track pedophile cases by nationality, but post is aware of two cases being prosecuted involving United States citizens. Article 16 of the criminal code allows the government to prosecute Nicaraguans for child sex tourism crimes abroad, but there were no cases during the reporting period.

15. Protection & Assistance to Victims (reftel para 28)

1A. (SBU) The government uses the Code for the Protection of Children and Adolescents to protect and assist children and adolescent victims of trafficking. In practice, NGOs provided most of the assistance (e.g., shelter) to victims. There is no existing law that provides for the government's assistance to adults and witnesses.

1B. (SBU) The Ministry of the Family is responsible for providing victim care facilities to children (people 17 years old and younger). In practice, the departments most affected by trafficking did not have adequate care facilities. There were no shelters in Chinandega. Rio San Juan, Esteli, and Rivas each had one shelter funded and operated by an NGO. Rivas also had one government-run care facility that took in all people in need of temporary shelter, not just trafficking victims. There were no government-run shelters available for women or men, nor were there any government-run shelters specifically for trafficking victims regardless of age or gender. As noted in the interim TIP assessment, media reported that the government underfunded the children's public shelters. The government does not provide funding to private care facilities. There was no overall coordinated program to provide integral attention and integration of victims. The Police Commissariat for Women provided some psychological assistance to female trafficking victims. There are few foreign victims in Nicaragua, but these victims receive the same attention as nationals.

1C. (SBU) The Public Ministry provides legal services to trafficking victims. People who stay at government shelters receive medical and psychological services from government sources. The Ministry of the Family, which is responsible for these shelters, would not meet with us. Victims who stayed at private shelters usually received psychological and medical assistance from the private organization. In general, the government does not provide funding or support to NGOs that provide victims' assistance. However, there are limited examples of the GON providing some support to NGOs such as office space to psychologists in the Department of Chinandega.

1D. (SBU) Foreign trafficking victims comprise a small percentage of the victims in Nicaragua. However, in these cases government authorities do allow the victims to stay in Nicaragua until they can be repatriated to their country of origin. International organizations noted the cooperation with immigration officials and the victims' embassies to repatriate the victims. As with all trafficking cases, in most cases international organizations and

NGOs provide the assistance. Most foreign trafficking victims in Nicaragua come from other Central American countries.

¶E. (SBU) In the previous reporting period, the Ministry of the Family told us it could provide longer-term shelter through foster homes and other programs to child and adolescent victims, but there were no programs for adult victims. Local NGOs told us that these foster homes did not adequately assist the victims. The Ministry would not meet with us this year to provide more information.

¶F. (SBU) The police refer victims to the Ministry of the Family or NGOs for victim assistance. The police will also transfer the victims to these locations.

¶G. (SBU) There were no reliable statistics to identify the number of trafficking victims during the reporting period. The Ministry of the Family has not traditionally managed these statistics. The police and Public Ministry reported nine trafficking cases involving 10 victims for the reporting period, but the two agencies did not coincide in their data. In the past, an independent think tank on security matters, the Institute for Strategic Studies and Public Policy (IEEPP), estimated police figures captured no more than 10% of actual cases. No other government institution collects or provides data on trafficking victims.

¶H. (SBU) The government does not have a formal system of proactively identifying victims of trafficking among high-risk persons with whom they come in contact. Most victims assisted in Nicaragua are Nicaraguans who returned from abroad.

¶I. (SBU) The government in general respected the rights of victims. Authorities might temporarily detain victims for questioning, but they are not arrested.

¶J. (SBU) The government encourages victims to assist in the prosecution of traffickers, but given the stigmatization of trafficking and sexual exploitation, victims are reluctant to participate in the prosecution. Trafficking victims can sue their offenders and can receive restitution.

¶K. (SBU) Several organizations (Casa Alianza, IOM, Save the Children, etc.) provided training to a variety of state institutions, including the police, the Public Ministry, and the Ministry of the Family. However, international organizations and NGOs reported difficulties in working with the Ministry of the Family due to the constant changes in personnel. During the reporting period, the Ministry saw three different ministers, each bringing their own staff to work on issues of child sexual exploitation and trafficking in persons. These changes occurred in Managua and the field offices. International organizations and NGOs reported that these constant changes led to difficulties in training the Ministry's personnel, defining the Ministry's roles and responsibilities on the issue of trafficking, and the ability to work on a time horizon past three months. The Ministry of Foreign Affairs, with the assistance of international organizations, continued training Nicaragua's diplomatic and consular personnel on handling trafficking cases. During the reporting period, the Ministry assisted in the repatriation of eight victims from El Salvador and Guatemala, and another 22 possible victims of trafficking from Guatemala. The Nicaraguan missions abroad assisted the victims with food, medical care, psychological counseling, shelter, travel documents, and other assistance.

¶L. (SBU) As part of the country's free healthcare system, trafficking victims can receive medical treatment on the same basis as any other patient in the general population. Shelter and other assistance are usually provided by NGOs.

¶M. (SBU) MAIS, Casa Alianza, and IOM are the principal international organizations that work with trafficking victims. Their work includes: shelter, psychological counseling, legal assistance, referrals, accompaniment through government procedures, etc. The government does not provide funding for these organizations. Cooperation between the organizations and the government tends to be better at the operational level than at the policy level. Additionally, cooperation is better at the local level than at the national level. Save the Children works in the

areas of prevention and investigation/prosecution of trafficking in persons.

16. (SBU) Prevention (reftel para 29)

1A. (SBU) The government did not conduct an information campaign during the reporting period. Organizations such as Save the Children, IOM, Casa Alianza, and others conducted information campaigns in which the government participated. Save the Children worked with the Ministry of Education to provide information on trafficking to students and teachers. The Ministry of the Family reactivated its 133 hotline, but only for information and reporting on the general welfare of adolescents and minors, and not just for trafficking in persons.

1B. (SBU) The government, with the assistance of Save the Children, has developed several mapping projects along the southern and northern borders of Nicaragua, which have been used especially by the police. However, there was no indication that immigration officials screened for potential trafficking victims at the borders. Local organizations in the northern and southern border of Nicaragua suspected some trafficking occurred with the knowledge or involvement of government officials, including immigration authorities.

1C. (SBU) The National Coalition Against Trafficking in Persons (NCATIP) is the government office responsible for coordinating the efforts of government institutions, international organizations, and NGOs in combating tr